

## **REMARKS/ARGUMENTS**

### **1.) Amendments**

Claims 3, 16, 24, and 32 have been amended. Claims 3-4, 7, 14, 16-17, 24, 27-28 and 32-33 are currently pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

This Reply is responsive to the current and Non-Final Office Action dated November 15, 2007.

### **2.) Claim Rejections**

Generally, the current Office Action rejected claims 3-4, 7, 14, 16-17, 24, 27-28, and 32-33 under 35 USC 103(a).

More specifically, the current Office Action reads as follows at the noted paragraphs:

5. Claims 3, 4, 7, 14, 16, 17, 32, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laiho (U.S. Patent No. 6,061,572) in view of Bender et al. (U.S. Patent No. 6,961,329 B1).

13. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laiho (U.S. Patent No. 6,061,572) in view of Bender et al. (U.S. Patent No. 6,961,329 B1).

14. Claims 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laiho (U.S. Patent No. 6,061,572) in view of Bender et al. (U.S. Patent No. 6,961,329) and in further view of Spielman et al. (U.S. Patent No. 6,560,318).



### 3.) Reasons for Patentability

#### WITH REGARD TO INDEPENDENT CLAIMS 3, 16, 24, AND 32

In paragraph #5 on pages 3-4, the current Office Action reads as follows:

However, Laiho (6,061,572) is silent to disclosing wherein said MS transmits to said node a feature code indicating that said MS is in data mode when said data session begins, said node encapsulating said SMS message into said IP packet only when said node has received said feature code.

Bender et al. (6,961,329) discloses MS (figure 1, access terminal) transmits to said node a feature code indicating that said MS is in data mode when said data session begins (registered CDMA message with HDR BSC) , said node encapsulating said SMS message into said IP packet only when said node has received said feature code (col. 1, lines 66-67, multi-mode access terminal can be designed to communicate with multiple radio networks such as IS-2000 CDMA to provide voice service, HDR radio network to provide packet data services) (col. 8, lines 11-12, if the access terminal has registered with the CDMA radio network, unsolicited CDMA messages (e.g., paging request messages) are sent by the MSC to the CDMA radio network... , and can be sent by either the MSC or the CDMA BSC to the HDR BSC ) (col. 8, lines 28-32, the HDR radio network receives the unsolicited CDMA message and identifies message for each access terminal "the access terminal on data mode". If a particular access terminal previously indicated that it is interested in receiving unsolicited CDMA messages, then the HDR radio network encapsulated each message received for this access terminal. The HDR radio network continues to send unsolicited CDMA message to the access terminal until a STOPEncapsulateCDMA message is received from the access terminal (the access terminal switches to "voice mode").

It therefore appears that the current Office Action is asserting that Bender et al. teaches one or more aspects of the claimed "**feature code**".

By way of example, claim 3 now reads as follows:

3. (Currently Amended) A telecommunications system for delivering a Short Message Service (SMS) message within a network capable of providing



both voice services on a voice carrier and data services on a data only carrier, said telecommunications system comprising:

a mobile station (MS) supporting both voice services and data services, said MS being currently involved in a data session on said data only carrier; and

a node in wireless communication with said MS for receiving said SMS message, encapsulating said SMS message into an Internet Protocol (IP) packet and routing said SMS message to said MS as an electronic mail message over said data only carrier without disrupting said data session wherein said node further operates to check whether said MS is involved in said data session prior to encapsulating said SMS message into said IP packet, said node transmitting said SMS message to said MS when said MS is not involved in said data session; and

*wherein said MS transmits to said node via a base station of said network a feature code indicating that said MS is in data mode when said data session begins.* said node encapsulating said SMS message into said IP packet only when said node has received said feature code.

*(italicized emphasis added)*

This is in contrast to the description of Bender et al. Even assuming, *arguendo*, (i) that CDMA Radio Network 122 and HDR Radio Network 120 of Bender et al. can be considered to correspond to "**voice services on a voice carrier and data services on a data only carrier**" of a network of claim 3 and (ii) that Laiho and Bender et al. may be combined under 35 USC 103(a), it is respectfully submitted that such a combination may not be applied to reject the claimed invention.

Specifically, Access Terminal 110 of Bender et al. indicates that it is interested in receiving unsolicited CDMA messages while in an HDR session by communicating with HDR Radio Network 120.

This is evidenced at the following example locations of Bender et al.:

(1) FIG. 4 / Elements: "Session establishment"; "EncapsulateCDMA"; "StopEncapsulateCDMA"; and "EncapsulateCDMA"

(2) Column 6 / Lines 55-62:



In accordance with the invention, during the HDR session configuration, the access terminal further indicates to the HDR radio network that it is interested in receiving unsolicited CDMA messages while it has a session with the HDR radio network. The unsolicited CDMA messages are messages originated from the CDMA radio network and sent to the access terminal without the mobile station initiating the transaction.

(3) Column 7 / Lines 58-61:

In an embodiment, the access terminal periodically sends an EncapsulateCDMA message to the HDR radio network to request it to start or continue forwarding (i.e., tunneling) unsolicited CDMA messages.

(4) Column 10 / Lines 13-20:

When the access terminal tunes back to the HDR radio network (e.g., after the voice call with the CDMA radio network has been terminated), it sends an EncapsulateCDMA message to the HDR radio network. Upon receiving the EncapsulateCDMA message, the HDR radio network starts or resumes encapsulating and forwarding CDMA messages for the access terminal, as the messages are received by the HDR radio network.

(5) Column 11 / Lines 37-40:

Transmission of traffic data and messages (e.g., EncapsulateCDMA messages, StopEncapsulateCDMA messages, and so on) from access terminal 110 to access point 130 [of HDR radio network 120 of FIG. 1] occurs via a complementary signal path.

Thus, Bender et al. teaches that the access terminal 110 sends an EncapsulateCDMA message, which indicates to the HDR radio network 120 that it is interested in receiving unsolicited CDMA messages while it has a session with the HDR radio network 120, to the access point 130 of the HDR radio network 120.

Hence, it is respectfully submitted that at least the following elements in conjunction with the other elements of their respective claims are novel and nonobvious, thus rendering their respective claims patentable:



Claim 3: wherein said MS transmits to said node via a base station of said network a feature code indicating that said MS is in data mode when said data session begins, said node encapsulating said SMS message into said IP packet only when said node has received said feature code.

Claim 16: [...] said means for determining comprises a feature code indicating that said MS is involved in said data session, said feature code being sent by said MS via a base station coupled to said Mobile Services Switching Center at the start of said data session.

Claim 24: [...] said means for determining comprises a feature code indicating that said MS is involved in said data session, said feature code being sent by said MS via a base station coupled to said Base Station Controller at the start of said data session.

Claim 32: [...] said step of determining further comprises transmitting a feature code indicating that said MS is in data mode when said data session begins from said MS to said node via a base station of said network.

WITH REGARD TO INDEPENDENT CLAIM 27

In paragraph #14 on pages 13, the current Office Action reads as follows:

However, the combined system (Laiho - Bender) are silent to disclosing wherein said conversion logic tags said electronic mail message with a received indicator, said received indicator generating a response message to said Base Station Controller when said MS opens said electronic mail message.

Spielman et al. discloses wherein said conversion logic tags said electronic mail message with a received indicator, said received indicator generating a response message to said Base Station Controller when said MS opens said electronic mail message (figure 1, SMS, col. 11, lines 15-25, The notification attribute 82f is another example of a first object class where two notification device tags (MWI=8945551212, PAGER=user@page.network.com) are stored for notification via a message waiting indicator and a pager. Since the paging protocol uses SMTP, the pager notification device tag has sufficient information for generation of the notification message for the corresponding pager to receive the page as an e-mail client via the notification delivery process



148. In addition, the notification attribute 82f illustrates that multiple device tags may be used to send a notification to respective multiple devices in response to the corresponding and, namely reception of an urgent voicemail message).

It therefore appears that the current Office Action is asserting that attribute 82f of Spielman et al. corresponds to a "**received indicator**" of claim 27.

Claim 27 reads as follows:

27. (Previously Presented) A Base Station Controller for delivering a Short Message Service (SMS) message to a mobile station (MS) supporting both voice services and data services, said Base Station Controller comprising:

means for determining whether said MS is currently involved in a data session on a data only carrier;

conversion logic for encapsulating said SMS message into an Internet Protocol (IP) packet and routing said SMS message to said MS over said data only carrier as an electronic mail message when said MS is involved in said data session; and

means for receiving said SMS message from a Short Message Service Center *wherein said conversion logic tags said electronic mail message with a received indicator, said received indicator generating a response message to said Base Station Controller when said MS opens said electronic mail message.* (italicized emphasis added)

It is respectfully submitted that Spielman et al. does not serve to reject claim 27, either alone or in combination with any other art. More specifically, it is respectfully submitted that the notification attribute 82f of Spielman et al. does not correspond to the "**received indicator**" of claim 27.

Spielman et al. is directed to managing notification preferences for notification delivery messages in an IP-based notification architecture (Spielman et al., the Title). The notification architecture includes a notification process and a subscriber directory (Spielman et al., the Abstract). "FIGS. 4A and 4B are diagrams summarizing the storage of subscriber notification preference information using a hierarchal structure of



multiple object classes according to an embodiment of the present invention. In particular, FIG. 4A is a diagram illustrating the subscriber directory 30 of FIG. 1 according to an embodiment of the present invention." (Spielman et al., Column 10, Lines 9-14)

In the description of FIG. 4A, Spielman et al. continues: "In particular, the notification preferences directory 78b is configured by the directory management process 74 for storing notification attributes 82 for respective notification types. For example, the subscriber notification preference information 80 includes: notification attributes 82a and 82b configured for storing notification device information if a normal priority or urgent priority e-mail is received for the notification subscriber; notification attributes 82c and 82d configured for specifying notification device information if a normal priority or urgent priority facsimile is received; and notification attributes 82e and 82f configured for specifying notification device information if a normal priority or urgent priority voice message is received, respectively." (Spielman et al., Column 10, Lines 39-52)

With regard to the example of notification attribute 82f as illustrated in FIG. 4B, Spielman et al. describes it as follows: "The notification attribute 82f is another example of a first object class where two notification device tags (MWI=8945551212, PAGER=user@page.network.com) are stored for notification via a message waiting indicator and a pager. Since the paging protocol uses SMTP, the pager notification device tag has sufficient information for generation of the notification message for the corresponding pager to receive the page as an e-mail client via the notification delivery process 14a. In addition, the notification attribute 82f illustrates that multiple device tags may be used to send a notification to respective multiple devices in response to the corresponding and, namely reception of an urgent voicemail message." (Spielman et al., Column 11, Lines 15-27)

In short, for an operation of Spielman et al., when an urgent voicemail message is received by the notification process, a voice mail notification is sent to each of the destinations specified in notification attribute 82f. For FIG. 4B, these destinations of notification attribute 82f are a phone number and a pager address. The notifications



themselves do not appear to contain any actual indicator requesting or requiring a response.

Consequently, it is respectfully submitted that Spielman et al. does not describe tagging a notification message with any type of indicator. Moreover, Spielman et al. does not teach including a received indicator that generates a response message. Furthermore, Spielman et al. does not teach including a received indicator that generates a response message when an electronic mail message is opened.

Hence, it is respectfully submitted that at least the following elements in conjunction with the other elements of claim 27 are novel and nonobvious, thus rendering claim 27 patentable:

Claim 27: [...] wherein said conversion logic tags said electronic mail message with a received indicator, said received indicator generating a response message to said Base Station Controller when said MS opens said electronic mail message.

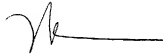


## CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for Claims 3-4, 7, 14, 16-17, 24, 27-28 and 32-33.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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